

Detroit Typographical Union No. 18, International Typographical Union, AFL-CIO and The Evening News Association, The Detroit News and Local 289, Graphic Arts International Union, AFL-CIO, Case 7-CD-424

March 22, 1983

DECISION AND DETERMINATION OF DISPUTE

BY MEMBERS JENKINS, ZIMMERMAN, AND HUNTER

This is a proceeding under Section 10(k) of the National Labor Relations Act, as amended, following the filing of a charge by The Evening News Association, the Detroit News, hereafter the Employer. The charge alleges that the Detroit Typographical Union No. 18, International Typographical Union, AFL-CIO, hereafter DTU, violated Section 8(b)(4)(D) of the Act by engaging in certain proscribed conduct with an object of forcing or requiring the Employer to continue to assign certain work to employees represented by DTU rather than to employees represented by Local 289, Graphic Arts International Union, AFL-CIO, hereafter GAIU.

A hearing was held before Hearing Officer Joseph Canfield on November 9, 1982,¹ in Detroit, Michigan. All parties appeared at the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to adduce evidence bearing on the issues. Thereafter, briefs were filed on behalf of the Employer, DTU, and GAIU.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this proceeding, the Board makes the following findings:

I. THE BUSINESS OF THE EMPLOYER

The parties stipulated and we find that the Employer is a Michigan corporation with its principal place of business at Detroit, Michigan, where it engages in the publication of the Detroit News, a daily and Sunday newspaper of general circulation. During the calendar year 1981, a representative period, the Employer was a member of and subscribed to the Associated Press and United Press International which are interstate news services, and derived gross revenues from its publishing op-

eration in excess of \$1 million. During the same period, the Employer had gross revenues in excess of \$50,000 for the publication of advertisements placed from outside the State of Michigan. Accordingly, we find that the Employer is engaged in a business affecting commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction in this proceeding.

II. THE LABOR ORGANIZATIONS INVOLVED

The parties stipulated, and we find, that DTU and GAIU are labor organizations within the meaning of Section 2(5) of the Act.

III. THE DISPUTE

A. *The Work in Dispute*

The work in dispute consists of the color separation of ads by the pasteup method.

B. *Background and Facts of the Dispute*

Prior to July, the color separation of ads was performed for some years by the Employer's engraving room employees, who are represented by GAIU, utilizing the film stripping method. This method essentially involved the making of negative images from which the color was separated. In July, the Employer changed its procedure and instituted the pasteup method for most of its color separation work.² Essentially this method entails the pasting of separate portions of the ads to photographic mats. The Employer assigned this work to its composing room employees who are represented by DTU. Shortly thereafter, GAIU filed a grievance protesting the assignment of this work to composing room employees and requesting its return to engraving room employees. In accordance with contractual procedures, this grievance was processed through at least one step of the grievance/arbitration procedure and was scheduled for presentation to the joint standing committee. This meeting was canceled and the Employer filed the present charge following its receipt of a letter from the president of DTU wherein he threatened "immediate economic action" if any attempt were made to remove the work from composing room employees. It is undisputed, and the parties stipulated, that there is no agreed-upon method for the voluntary adjustment of the dispute which would bind all parties.

¹ Except as noted, all dates are 1982.

² Four color ads continue to be separated by the film stripping method. These multicolor ads are a very small percent of the ad business.

C. The Contentions of the Parties

The Employer contends that its assignment of the work to composing room employees represented by DTU should not be changed because it is based on contract provisions, efficiency, economy, past assignment, the need for additional work in the composing room, and the absence of any adverse impact on the photoengravers represented by GAIU. DTU contends that the Employer is contractually obligated to assign all pasteup work to employees it represents and argues that the assignment of color separation work to composing room employees has had little impact on either unit. DTU notes also that composing room employees previously performed color separation work by the metal-form method prior to the Employer's conversion some years ago to the "cold type" film stripping method of color separation and its resulting assignment of this work to the photoengravers. GAIU argues that the Employer should return to the traditional method of color separation by film stripping. This method, GAIU argues, enables the color separation work to be performed more efficiently and more accurately as compared to the pasteup method. GAIU notes that it has contractual jurisdiction over film stripping.

D. Applicability of the Statute

Before the Board may proceed with a determination of dispute pursuant to Section 10(k) of the Act, it must be satisfied that (1) there is reasonable cause to believe that Section 8(b)(4)(D) has been violated and (2) the parties have not agreed upon a method for the voluntary adjustment of the dispute.

As noted above, the DTU threatened the Employer with "immediate economic action" with the object of forcing the Employer to continue assigning the work to employees it represents rather than to those represented by GAIU. It is undisputed, and the parties stipulated, that there is no agreed-upon method of voluntary adjustment of the dispute which would bind all of the parties. It is well established that grievance or arbitration proceedings which do not involve all of the parties to the dispute are not an adequate method of adjustment within the meaning of Section 10(k).³

Upon the entire record, we find that there is reasonable cause to believe that Section 8(b)(4)(D) has been violated; that there is no agreed-upon method for the resolution of this dispute; and thus that the

dispute is properly before the Board for determination.

E. Merits of the Dispute

Section 10(k) of the Act requires the Board to make an affirmative award of disputed work after giving due consideration to various factors. We have considered the following factors in making our determination.⁴

1. Collective-bargaining agreements

DTU's contract, with the Employer at section 7(a), defines that Union's jurisdiction and classifications as including, *inter alia*, "all composing room work," "paste makeup with reproduction proofs," and "employees processing the product of phototypesetting machines, including . . . paste makeup of all type," and "paste makeup serving as the completed copy for the camera." This section also prohibits the Employer from making "any other agreement" covering this work, however, it recognizes and permits the continuation of a certain volume of "promotional advertising paste makeup" by "persons in other departments."

Article II of GAIU's contract provides that the Union's position as to its proper jurisdiction is: "the process of photoengraving and its attendant work" including, *inter alia*, stripping. It makes no reference to pasteup work. We find that this factor favors an award of the disputed work to employees represented by DTU.

2. Relative skills, company practice, and employer preference

Composing room employees traditionally have performed all of the Employer's pasteup work with the apparent exception of certain promotional advertising work. There is no evidence that the photoengravers ever have performed pasteup work. The Employer has assigned the color separation work to composing room employees and is satisfied with their performance. Accordingly, we find these factors favor an award of the disputed work to employees represented by DTU.

3. Possible job loss and efficiency of operation

According to the Employer's undisputed testimony, there has been little impact on photoengraving department employees following its assignment of this work to the composing room. There has been no reduction in the number of photoengravers em-

³ *Warehouse Employees' Union Local 169, a/w the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Frankford Quaker Grocery Company, Inc.)*, 218 NLRB 310, 312 (1975), and cases cited therein at fn. 8.

⁴ We note here that the Employer has chosen to have color separation work performed by the pasteup method. We will not determine whether, as GAIU argues, film stripping is the more appropriate method for color separation. Rather, we determine only which group of employees should perform this work using the pasteup method.

ployed and no layoffs are contemplated. The assignment to the composing room has resulted in a more efficient use of employees. The Employer notes that many of its DTU-represented employees received a lifetime job guarantee at the time of its conversion to a "cold type" operation and that there currently is insufficient work to keep all of these employees busy. Thus, the assignment of the color separation work to the composing room somewhat offsets this problem. Thus, we find these factors favor an award of the disputed work to employees represented by DTU.

Conclusion

Upon the record as a whole, and after full consideration of all relevant factors, we conclude that composing room employees who are represented by DTU are entitled to perform the work in dispute. In making this determination, we are award-

ing the work in question to employees who are represented by the DTU but not to that Union or its members. The present determination is limited to the particular controversy which gave rise to this proceeding.

DETERMINATION OF DISPUTE

Pursuant to Section 10(k) of the National Labor Relations Act, as amended, and upon the basis of the foregoing findings and the entire record in this proceeding, the National Labor Relations Board hereby makes the following Determination of Dispute:

Employees employed by The Evening News Association, The Detroit News, who are represented by Detroit Typographical Union No. 18, International Typographical Union, AFL-CIO, are entitled to perform color separation by the pasteup method.